

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL FLOOD, JR. and ALECIA FLOOD, : Civil Action No. 2:18-cv-1310-MRH  
individually and as Parents and Natural :  
Guardians of T.F., a minor, : HONORABLE MARK R. HORNAK

Plaintiffs,

vs.

GEORGE VILLEGAS, JR. and PAM :  
VILLEGAS, individually and as Parents and :  
Natural Guardians of MEGAN VILLEGAS, :  
DAVID and CHRISTY SHERK, individually :  
and as Parents and Natural Guardians of K.S., :  
a minor, DAVID and CHRISTINE SEAMAN, :  
individually and as Parents and Natural :  
Guardians of C.S., a minor, CRIS and :  
KIMBERLY SALANCY, individually and as :  
Parents and Natural Guardians of E.S., a minor, :  
DAVID and LYNN REINA, individually and as :  
Parents and Natural Guardians of H.R., a minor, :  
SENECA VALLEY SCHOOL DISTRICT, :  
BUTLER COUNTY DISTRICT :  
ATTORNEY'S OFFICE and BUTLER :  
COUNTY, PENNSYLVANIA, :

Defendants.

**MINOR DEFENDANT E.S.'S MOTION TO ADOPT BY REFERENCE THE MOTIONS  
TO DISMISS COUNT I OF COMPLAINT FILED ON BEHALF OF DEFENDANT  
MEGHAN VILLEGAS AND DEFENDANT C.S.**

AND NOW, comes the Defendant, E.S., a minor ("Moving Defendant"), through her undersigned counsel, and respectfully submits the following Motion to Adopt by Reference the Motions to Dismiss Count I of Complaint Filed on Behalf of Defendant Meghan Villegas and Defendant C.S., pursuant to Rule 10(c) of the Federal Rules of Civil Procedure, stating as follows:

1. On December 3, 2018, Defendant E.S., a minor, filed a Motion to Dismiss Pursuant to F.R.C.P. 12(b)(6) seeking to dismiss Counts III – X of Plaintiffs' Complaint. (Document 38). Defendant E.S., a minor, hereby incorporates by reference the factual averments set forth in her Motion to Dismiss (Document 38).

2. On December 3, 2018, Defendant C.S., a minor, filed a Motion to Dismiss Minor Defendant C.S./Joinder in F.R.C.P. 12 (b)(6) Motion to Dismiss of Minor Defendant E.S. seeking to dismiss Count I and III – X of Plaintiffs' Complaint. (Document 42).

3. Pursuant to Rule 10(c), Defendant E.S., a minor, joins in the Motion to Dismiss filed by Defendant C.S., a minor, with respect to Count I of the Complaint, as set forth more fully in Defendant C.S.'s Motion at paragraphs 45-54. (Document 42).

4. On December 4, 2018, Defendant Meghan Villegas filed a Motion to Dismiss Under Rule 12 (b)(6) seeking to dismiss Count I and III – X of Plaintiffs' Complaint. (Document 49).

5. Pursuant to Rule 10(c), Defendant E.S., a minor, joins in the Motion to Dismiss filed by Defendant Meghan Villegas with respect to Count I of the Complaint, as set forth more fully in Defendant Meghan Villegas' Motion at paragraphs 15-16 and 37-41. (Document 49).

6. Further, Defendant E.S., a minor, asserts that the Plaintiffs' claims for Negligence are barred by the application of the defense of absolute privilege and adopts the argument as to absolute privilege set forth in her Brief in Support of Motion to Dismiss at paragraphs 18-24. (Document 38).

WHEREFORE, the Defendant, E.S., a minor, respectfully requests that this Honorable Court dismiss in its entirety Count I Negligence under F.R.C.P. 12(b)(6) for failing to state a claim upon which relief can be granted.

Respectfully submitted,

CIPRIANI & WERNER,P.C.

/s/Jennifer M. Swistak

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Counsel for Defendant, E.S., a minor

Date: December 4, 2018

**CERTIFICATE OF COMPLIANCE**

Counsel for Moving Defendant hereby certifies that prior to filing this Motion, counsel conferred in good faith with counsel for Plaintiffs and counsel for the other parties regarding their position as to the relief sought. Counsel for Moving Defendant and counsel for Plaintiffs were unable to reach agreement.

Respectfully submitted,

CIPRIANI & WERNER,P.C.

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